Defendants' knowing and intentional failure to account properly for Dell's accrued expenses violated this fundamental accounting principle and caused Dell's reported operating results to be materially misstated, thereby causing investors to be deceived during the Class Period.

125. As noted above, under GAAP a company only may set aside reserves in limited circumstances. In this regard, FASB SFAS No. 5, Accounting for Contingencies, provides that a loss from a contingency may be recorded on a company's balance sheet only if (a) it is probable that a loss has been incurred, and (b) the amount of the loss can be reasonably estimated. The intentional establishment of inflated accruals in those years when a company is extremely profitable and doing well and can afford to incur larger expense amounts are not permitted under GAAP. Such inflated accruals often are referred to as "cookie jar" reserves.

126. The term "cookie jar" reserves refers to inappropriate or excessive reserves that are created by management, allegedly in connection with legitimate business events. For example, a company may attempt to use unrealistic assumptions during good years to overstate liabilities for items such as sales returns, loan losses or warranty costs. These "cookie jar" reserves are then tucked away for management to "reach into" and reverse in future years when the company is unprofitable or marginally profitable and when a boost to earnings would be beneficial.

127. The utilization of cookie jar reserves distorts a company's financial picture in two ways. First, it reduces the company's earnings in earlier periods, when the excess reserve is established. Second, it artificially inflates the company's earnings in later periods, when the reserve is released into income, thereby making investors believe that the company has been more successful than it actually has been. As Walter P. Schuetze, former Chief Accountant of

the SEC's Division of Enforcement declared in his April 22, 1999 speech at the Nineteenth Annual Ray Garrett, Jr., Corporate and Securities Law Institute:

> I have seen the amounts of those initially established reserves arbitrarily increased for good measure. These excessive amounts of reserves then are leeched, undisclosed, into subsequent operating income, at a rate that is under someone's radar screen of materiality.

128. Likewise, former SEC chairman Arthur Leavitt, in his famous speech "The Numbers Game" made at the NYU Center for Law and Business, described the illusory financial impact a cookie jar scam has when a company reverses its excess reserves into income: "if [reserve] charges are conservatively estimated with a little cushioning, that so-called conservative estimate is ***miraculously reborn as income when estimates change or future earnings fall short."*** (emphasis added).

129. Such a cookie jar scam is precisely the conduct that the Dell Defendants knowingly and intentionally indulged in during the Class Period. The Dell Defendants permitted the Company to accrue amounts in excess of required reserves related to the following accounts: warranty liabilities, employee benefits, accounts payable, litigation, sales commissions, payroll, employee bonuses, and supplier rebates. Then, in "lean times," the Dell Defendants directed that these reserves be released into income in order for Dell to meet earnings expectations. These accruals and subsequent releases from reserves ***generated the appearance of steady earnings growth and permitted Dell to "achieve" specific earnings targets.*** (emphasis added).

130. For example, CS15 confirms that he/she was ordered by his/her managers to draw funds from "functional reserves" whenever the division was not going to meet its quarterly numbers. CS15 confirms that he/she was very uncomfortable with this practice because, "I was always taught that documentation was needed for an accrual . . . [but here,] there was nothing backing it up." CS15 further stated that, if it became apparent that his/her division had missed

their numbers for the quarter, part of the reserve would be released and credited against expenses to help them "get over the hump." According to CS15, he/she was personally ordered by his/her managers to release funds from the "functional reserve."

131. Using funds from a "reserve" to reduce costs was not unique to this one Dell plant. According to CS15, he/she participated in conference calls with employees from plants in North Carolina, Austin and Nashville where employees openly discussed releasing funds held in reserves to mask poor performance.

132. GAAP normally reflects application of the "all-inclusive" income statement concept. This concept recognizes all income and expenses, even irregularly occurring losses or costs, in the results of operations in the period incurred, unless GAAP provide otherwise. This "all-inclusive" concept is intended, among other things, to avoid discretionary omissions of losses or gains from income, thereby avoiding a presentation of a more or less favorable report of performance than is justified. Statement of Financial Accounting Concepts No. 5, Recognition and Measurement in Financial Statements of Business Enterprises ¶ 35. However, as disclosed in Dell's Fiscal 2006 10-K, "[t]he investigation concluded that a number of these adjustments were improper [and] appear to have been made for the purpose of enhancing internal performance measures or reported results, as well as the transfer of excess accruals from one liability account to another and the use of the excess balances to offset unrelated expenses in later periods." Dell FY 2007 Form 10-K at 72 ("Summary of Investigation Findings").

133. In addition, GAAP states that the "recognition of revenues, expenses, gains, and losses and the related increments or decrements in assets and liabilities—including matching of costs and revenues, allocation, and amortization—is the essence of using accrual accounting to measure performance of business enterprises. The goal of accrual accounting for a business

enterprise is to account in the periods in which they occur for the effects of transactions and other events and circumstances, to the extent that those financial effects are recognizable and measurable." Concepts Statement No. 3 ¶ 85.

134. As confirmed by Dell's Restatement of October 30, 2007, the Dell Defendants not only overstated Dell's earnings per share in six financial quarters during the Class Period, but they also improperly engaged in earnings smoothing by misstating Dell's earnings per share in six other financial quarters, all with the knowledge and intent to deceive investors.

2. The Dell Defendants Manipulate Warranty Reserves

135. The Dell Defendants manipulated warranty liabilities during the Class Period to manage earnings and "meet" earnings expectations. In some instances, the Dell Defendants under-accrued warranty liabilities when there was an expectation of an earnings shortfall and over-accrued in good times to stockpile reserves for future use, both in violation of GAAP. As the Company admitted in its Form 10-K filed on October 30, 2007:

> Warranty Liabilities
>
> The issues related to Dell's warranty liabilities include situations where certain vendor reimbursement agreements were incorrectly accounted for as a reduction in the estimate of the outstanding warranty liabilities. There were also instances where warranty reserves in excess of the estimated warranty liability, as calculated by the warranty liability estimation process, were retained and not released to the income statement as appropriate. Additionally, certain adjustments in the warranty liability estimation process were identified where expected future costs or estimated failure rates were not accurate.

Dell FY 2007 Form 10-K at 76 ("Warranty Liabilities").

136. The Dell Defendants knowingly, intentionally, and systematically under-accrued warranty expenses associated with basic warranties. For example, CS4, formerly a Senior Program Manager for Dell's Enterprise Product Group, confirms that there was always pressure from senior management to reduce accruals for a particular product line. According to CS4,

"more often than not" accruals would be "cut to the absolute minimum." CS4 recalled one specific instance in which Dell under-accrued for a product line to such an extent that it ran out of accrued warranty reserves long before warranty-related expenses were covered. Specifically, a server was released by the Enterprise Division in 2000 that was so substantially flawed that Dell removed it from production by mid-2001. Indeed, the integrity of the product was so poor that Dell extended the warranty for those servers that had already been sold and installed. Because of this, by 2003 Dell had exceeded accruals on this product by approximately $10 million and, despite the fact that warranty claims on this product were still incoming at a rapid pace, nothing was done to replenish the accrued reserve for this product. Dell's failure to take an accrual for this item violated GAAP.

3. The Dell Defendants Violate GAAP by Over-Accruing Employee Bonuses

137. Another mechanism the Dell Defendants used to stockpile reserves for release in future periods was to improperly over-accrue employee bonuses in contravention of GAAP. In this regard, Dell disclosed on October 30, 2007 that "[c]ertain employee bonuses were not accrued correctly, including the timing of the recording of the accrual for the employee bonuses." Dell FY 2007 Form 10-K at 76 ("Other Reserves and Accruals – Employee Bonuses"). Moreover, Dell admitted that it violated SFAS No. 154 because "in certain cases when excess accruals resulted from differences in the actual bonus payments, the excess accruals were not adjusted as appropriate." *Id.*

4. The Dell Defendants Violate GAAP by Over-Accruing Customer Rebates

138. Additionally, the Dell Defendants improperly over-accrued customer rebates to stockpile reserves for release in future periods. As explained previously, SFAS No. 5 requires that reserves for expenses, losses and liabilities shall be accrued by a charge to income if both of the following conditions are met:

> (a) Information available prior to the issuance of the financial statements indicates that it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements [and]
>
> (b) The amount of loss can be reasonably estimated.

139. In several instances, however, the Dell Defendants did not "reasonably estimate" for liabilities. As set forth in the Company's Form 10-K filed on October 30, 2007:

> • Customer Rebate Accruals — Dell's U.S. Consumer segment and small business group historically offered various forms of rebates to stimulate sales, including mail-in rebates. The rebate redemption liability is estimated at the time of sale based on historical redemption rates for the various types of promotions. Dell has determined that this liability was overstated due to a number of factors, including failure to update redemption rates when appropriate, additional amounts accrued for expected customer satisfaction costs, and unsupported incremental accruals recorded in addition to the calculated redemption liability estimate.

Dell FY 2007 Form 10-K at 75 ("Revenue Recognition Adjustments – Other").

5. The Dell Defendants Violate GAAP by Improperly Accounting for Vendor Funding Arrangements

140. Also, the Dell Defendants improperly accounted for vendor funding arrangements, thereby violating GAAP in multiple ways. Under EITF Issue No. 02-16, Accounting by a Customer (Including a Reseller) for Certain Consideration Received from a Vendor, "[c]ash consideration received by a reseller from a vendor is considered a reduction of the price of the vendor's products or services and should, therefore, be characterized as a reduction of cost of sales when recognized in the reseller's income statement." Dell, however, has admitted that "[c]ertain amounts received from vendors were recorded as a reduction in operating expenses instead of being correctly recorded as a reduction of cost of goods sold." Dell FY 2007 Form 10-K at 76 ("Other Reserves and Accruals – Vendor Funding Arrangements"). Moreover, in keeping with the Dell Defendants' overall theme of stockpiling reserves for future use, the Company retained "certain amounts received . . . on the balance sheet and released in future periods despite the earnings process having been complete in the earlier

period." *Id.* In addition, the Dell Defendants also improperly recorded "the benefit of certain vendor funding . . . prior to the completion of the earnings process." *Id.*

141. The Dell Defendants' accounting manipulations *vis-à-vis* the stockpiling of reserves were not limited to a few accounts, but rather were pervasive and systemic throughout the Class Period and included manipulating accounts for employee benefits, accounts payable, litigation, sales commissions, payroll, employee bonuses, and supplier rebates. In this regard, the Company's recent Form 10-K contains the following admissions:

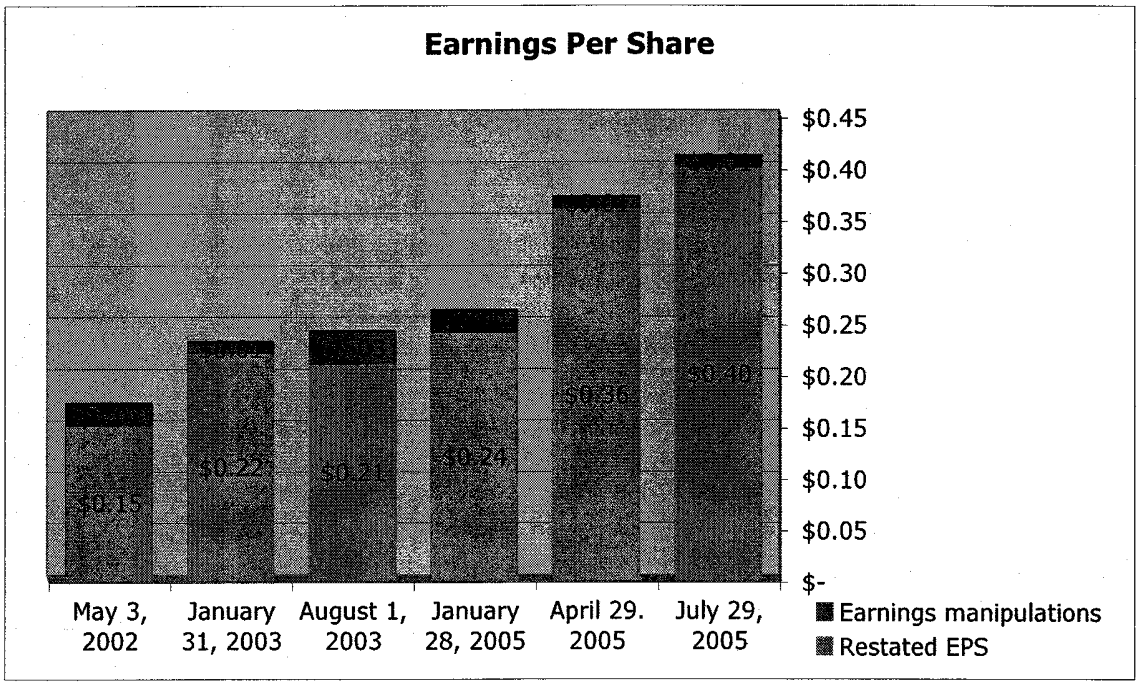
- Unsubstantiated Accruals and Inadequately Reconciled Accounts — In some instances accrual and reserve accounts lacked justification or supporting documentation. In certain cases these accounts were used to accumulate excess amounts from other reserve and accrual accounts. However, these excess reserves were not released to the income statement in the appropriate reporting period or were released for other purposes. In some instances accounts had incorrect balances because they had not been properly reconciled or because reconciling items had not been adjusted timely.

Dell FY 2007 Form 10-K at 76 ("Others Reserves and Accruals").

142. In violation of the foregoing well-established GAAP requirements, the Dell Defendants obscured the Company's true liabilities and related expense accrual in order to conceal their fraudulent activities from the investing public. The Dell Defendants also made materially false and misleading statements about a variety of matters that affected investors' perception of Dell's ability to deliver earnings growth; namely, the efficiency in Dell's business model and its greatly expanding revenue through sales efforts. However, a key reason the Dell Defendants were able to report improvement in Dell's net income and earnings was because they had knowingly permitted Dell to create "cookie jars" from which to take or add funds in order to adjust the Company's net income and to manipulate or smooth out the Company's earnings.

E. The Materiality Of The Accounting Violations

143. Dell's accounting misstatements were materially false and misleading. The materiality of Dell's accounting violations are highlighted by the fact that in 4 of 6 quarters in which earnings were restated downwards, such restatement caused Dell to miss its earnings guidance to investors, whereas the originally reported amounts caused Dell to "meet" (albeit only in appearance) its guidance, as the following graph illustrates:



144. Notably, the SEC, in Staff Accounting Bulletin ("SAB") No. 99, states that a consideration that may well render material a quantitatively small misstatement of a financial statement item is "whether the misstatement hides a failure to meet analysts' consensus expectations for the enterprise." ***Indeed, in each of the 4 quarters shown above, but for the earnings manipulations, Dell would not have achieved consensus estimates.*** Moreover, the impact of the earnings manipulation had a direct and material impact on Dell's stock price. For example, after Dell announced its Q1:06 results, shares climbed more than 7%, to close at $39.33, as investors reacted to the positive earnings results.

145. Likewise, in the quarters where Dell's earnings were restated upwards, Dell's originally reported earnings had already met guidance, thereby further confirming Defendants' deliberate "earnings manipulation" scheme.

146. The following chart shows the effect the restatements had in periods in which earnings per share in Dell's originally filed Consolidated Statements of Income were overstated.

Effect of Restatement on Earnings Per Share						
	Q/E 7/29/05	**Q/E 4/29/05**	**Q/E 1/28/05**	**Q/E 8/1/03**	**Q/E 1/31/03**	**Q/E 5/3/02**
Decrease in reported diluted EPS	$(.01)	$(.01)	$(.02)	$(.03)	$(.01)	$(.02)
Originally reported diluted EPS	$0.41	$0.37	$0.26	$0.24	$0.23	$0.17
Restated diluted EPS	$0.40	$0.36	$0.24	$0.21	$0.22	$0.15
% originally reported EPS was overstated	2.4%	2.7%	7.7%	12.5%	4.5%	11.8%

147. As explained in detail above, the Company recently admitted in Dell's Form 10-K filed on October 30, 2007, that Dell's senior management improperly misapplied GAAP and distorted facts that existed at the time the financial statements were prepared. In that same Form 10-K, the Company also stated that:

> As a result of issues identified in the Audit Committee investigation, as well as issues identified in additional reviews and procedures conducted by management, the Audit Committee, in consultation with management and PricewaterhouseCoopers LLP, our independent registered public accounting firm, concluded on August 13, 2007 that our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements. Accordingly, we have restated our previously issued financial statements for those periods.

Dell FY 2007 Form 10-K at 37 ("Restatement").

148. Under GAAP, only "material" accounting "mistakes in the application of GAAP . . . that existed at the time the financial statements were prepared" may be restated. SFAS No. 154, Accounting Changes and Error Corrections ¶ 2h (May 2005). By restating Dell's financial statements for fiscal years 2003, 2004, 2005, 2006 and the first quarter of fiscal year 2007, the Dell Defendants have thereby admitted the materiality of the errors in the Company's previously issued financial statements.

149. In addition, the accounting violations in question were qualitatively material. In this regard, SAB No. 99 emphasizes the importance of considering both quantitative and qualitative factors in assessing the materiality of accounting misstatements. In SAB No. 99, the SEC reminds public companies that it is inappropriate to rely exclusively on any percentages or numerical thresholds in determining materiality. As such, SAB No. 99 mentions several qualitative considerations that may cause misstatements of quantitatively small amounts to be qualitatively material, including:

- Whether the misstatement arises from an item capable of precise measurement or whether it arises from an estimate and, if so, the degree of imprecision inherent in the estimate.

- Whether the misstatement masks a change in earnings or other trends.

- Whether the misstatement hides a failure to meet analysts' consensus expectations for the enterprise.

- Whether the misstatement changes a loss into income or vice versa.

- Whether the misstatement concerns a segment or other portion of the registrant's business that has been identified as playing a significant role in the registrant's operations or profitability.

- Whether the misstatement has the effect of increasing management's compensation - for example, by satisfying requirements for the award of bonuses or other forms of incentive compensation.

150. Here, the Company's recently-filed Form 10-K concedes that Dell's senior management failed to consider qualitative aspects of materiality during the Class Period. By way of example, with regard to warranty liabilities, the recently issued Form 10-K states:

> Warranty Liabilities
>
> The issues related to Dell's warranty liabilities include situations where certain vendor reimbursement agreements were incorrectly accounted for as a reduction in the estimate of the outstanding warranty liabilities. There were also instances where warranty reserves in excess of the estimated warranty liability, as calculated by the warranty liability estimation process, were retained and not released to the income statement as appropriate. Additionally, certain adjustments in the warranty liability estimation process were identified where expected future costs or estimated failure rates were not accurate.

Dell FY 2007 Form 10-K at 76 ("Warranty Liabilities").

151. Indeed, throughout the Class Period, by deliberately manipulating Dell's accrual for the standard warranty, and failing to adequately disclose Dell's standard warranty activity separate and apart from its extended warranty activity, the Dell Defendants were able to mask the inadequacy of Dell's warranty accrual for its standard warranty. Defendants' representations concerning the financial results during the Class Period were materially false and misleading because Defendants, in violation of GAAP, improperly reported Dell's standard warranty liability and the related expenses. As a result, the Company's reported earnings and earnings per share were materially misrepresented during the Class Period.

F. Dell Failed To Maintain Internal Controls Over Financial Reporting

152. In addition to the foregoing deliberate accounting improprieties, Dell suffered from a serious lack of internal controls over its financial reporting throughout the Class Period. This rendered the Company's financial reporting inherently corrupt, subject to manipulation and unreliable. It also means that each of Defendants' Class Period statements that Dell's financial results complied with GAAP were materially false and misleading.

153. Throughout the Class Period, the Individual Defendants lied in each of Dell's Form 10-Ks and 10-Qs filed with the SEC that the Company "prepares its financial statements in conformity with generally accepted accounting principles in the U.S." Moreover, in each Form 10-Q and 10-K that Dell filed with the SEC during the Class Period, at least two of the three Individual Defendants (Michael Dell, Rollins, and Schneider) certified Dell's financial condition and internal controls over financial reporting, expressly representing that:

> - Based on my knowledge, this . . . report does not contain any untrue statement of a material fact or omit to state a material fact in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report";
>
> - "Based on my knowledge, the financial statements, and other financial information included in this . . . report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this . . . report";
>
> - "[Dell's] other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal controls over financial reporting to [Dell's] auditors and audit committee of [Dell's] board of directors:
>
>   (a) All significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
>
>   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting."

154. Yet, contrary to the Individual Defendants' "certifications" and SEC requirements, the Dell Defendants intentionally or recklessly failed to implement and maintain an adequate financial reporting control system, thereby causing significant, repeated, and pervasive GAAP violations. Specifically, the Company was recently forced to admit in Dell's Form 10-K filed on October 30, 2007, that, as a result of an evaluation conducted by "Dell's management, under the supervision and with the participation of the current Chief Executive

Officer and current Chief Financial Officer," that "management identified the following control deficiencies as of February 2, 2007 that constituted material weaknesses:"

- We did not maintain a tone and control consciousness that consistently emphasized strict adherence to GAAP. This control deficiency resulted in an environment in which accounting adjustments were viewed at times as an acceptable device to compensate for operational shortfalls, which in certain instances led to inappropriate accounting decisions and entries that appear to have been largely motivated to achieve desired accounting results and, in some instances, involved management override of controls. In a number of instances, information critical to an effective review of transactions and accounting entries was not disclosed to internal and external auditors.

- We did not maintain a sufficient complement of personnel with an appropriate level of accounting knowledge, experience, and training in the application of GAAP commensurate with our financial reporting requirements and business environment.

- The control environment, which is the responsibility of senior management, sets the tone of the organization, influences the control consciousness of its people, and is the foundation for all other components of internal control over financial reporting. The control environment material weaknesses described above contributed to the material weaknesses related to our period-end financial reporting process described below.

- Period-end financial reporting process — We did not maintain effective controls over the period-end reporting process, including controls with respect to the review, supervision, and monitoring of accounting operations. Specifically:

    - Journal entries, both recurring and nonrecurring, were not always accompanied by sufficient supporting documentation and were not always adequately reviewed and approved for validity, completeness, and accuracy;

    - Account reconciliations over balance sheet accounts were not always properly and timely performed, and the reconciliations and their supporting documentation were not consistently reviewed for completeness, accuracy, and timely resolution of reconciling items; and

    - We did not design and maintain effective controls to ensure the completeness, accuracy, and timeliness of the recording of accrued liabilities, reserves, and operating expenses, primarily related to our accrued warranty obligations, goods and services received but not invoiced, customer rebates, and nonproduction operating expenses.

> • These material weaknesses resulted in the restatement of our annual and interim financial statements for Fiscal 2003, 2004, 2005, and 2006 and the first quarter of Fiscal 2007, and resulted in adjustments, including audit adjustments, to our annual and other interim financial statements for Fiscal 2007. Additionally, these material weaknesses could result in misstatements of substantially all of our financial statement accounts that would result in a material misstatement of our annual or interim consolidated financial statements that would not be prevented or detected on a timely basis.
>
> • Based on management's evaluation, because of the material weaknesses described above, management has concluded that our internal control over financial reporting was not effective as of February 2, 2007.

Dell FY 2007 Form 10-K at 112-113 ("Management's Report on Internal Control Over Financial Reporting").

155. Moreover, by intentionally or recklessly failing to implement and maintain adequate internal controls over Dell's financial reporting during the Class Period, the Individual Defendants also are responsible for the fraudulent recognition of revenue from "fabricated" and "fictitious transactions" made during the Class Period:

> • Japan Services Transactions — In late January 2007, a Japanese systems integrator with whom Dell's Japanese services division did business, filed for bankruptcy. The bankruptcy trustee publicly indicated that the systems integrator had engaged in fictitious transactions. Dell promptly commenced an internal investigation led by Dell's Ethics Office to determine whether its Japanese business unit had engaged in any ***fictitious transactions*** with the systems integrator. Dell hired independent outside counsel who retained independent accountants to lead the investigation. ***The investigation determined that almost all of the transactions of the Japan services business involving the systems integrator likely were fabricated, as were certain additional smaller transactions involving two other Japanese systems integrators.*** The impact of the adjustments reduced net revenue and cost of revenue to eliminate the effect of the fictitious transactions.

Dell FY 2007 Form 10-K at 75 ("Revenue Recognition Adjustments – Other") (emphasis added).

G. PwC Issues "Clean Audit" Opinions For Each Financial Report Dell Restated

156. PwC was a critical component to the execution of the fraudulent conduct described herein.

157. As Dell's auditor, PwC was paid millions of dollars during the Class Period to audit Dell's annual financial reports and certify to investors that the reports were prepared in accordance with GAAP and that the reports fairly presented the Company's financial position. If Dell's financial reports did not meet this criteria, PwC was required to issue a "qualified audit" opinion or refuse to certify Dell's financial results. PwC did neither.

158. Year after year, and for each annual report issued during the Class Period, PwC issued unqualified "clean audit" opinions certifying Dell's annual reports (filed on Form 10-K). Each of the reports PwC certified has now been restated by Dell.

159. As explained in detail *infra* at Section X, PwC's audit of Dell was conducted in violation of GAAS. Had PwC fulfilled its obligations as Dell's "independent auditor," the fraud detailed herein could not have occurred.

VIII. DEFENDANTS' FALSE AND MISLEADING STATEMENTS

160. In press releases, filings with the SEC, and other public statements, Defendants made scores of materially false and misleading statements during the Class Period. In particular, and as Dell now admits through its restatements, Defendants: (a) misstated Dell's financial results; (b) provided fraudulently misleading explanations in the notes to Dell's financial statements; (c) failed to disclose that Dell achieved these results through fraudulent accounting manipulations described above; and (d) failed to disclose that projections of future results depended on a continuation of Defendants' fraudulent scheme. Additionally, between August 2005 and August 17, 2006, Defendants failed to disclose that the SEC was investigating Dell's accounting practices and that its poor stock performance was due not to a temporary slump or a business miscalculation, but rather to a winding down of the fraudulent accounting practices that had inflated the Company's stock price during the Class Period. Defendants' specific false and misleading statements are fully set forth below.

A. First Quarter FY 2003 (For The Quarter Ended May 3, 2002)

1. First Quarter 2003 Earnings Release

161. On May 16, 2002, Dell issued an earnings release announcing its financial results for the quarter ended May 3, 2002 (the "Q1 2003 Earnings Release"). The Q1 2003 Earnings Release quoted Defendant Rollins, who stated: "Our objectives are simple and unchanged: to further reduce costs; to deliver great value to customers, particularly enterprise customers; and ***to profitably gain market share. . . . We're continuing to make good on all three commitments.***" (emphasis added). Rollins further stated that "Dell's Q2 revenue could be up 8 percent year-over-year to $8.2 billion, with higher operating margin producing per-share earnings of about 18 cents." Additionally, the Q1 2003 Earnings Release contained the following false and misleading financial information relating to the Company's first quarter results:

	In Millions of Dollars
Net Revenue	$8,066
Operating Income	$590
Net Income	$457
Earning Per Share (Diluted)	$.17
Gross Margin	$1,391
Stockholders' Equity	$4,521
Total Liabilities	$8,795

162. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income, net income, earnings per share and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within

those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

2. First Quarter 2003 Earnings Conference Call

163. On May 16, 2002, Dell held a conference call to discuss its first quarter FY 2003 earnings ("Q1 2003 Earnings Call"). On this call, Defendant Schneider stated:

> our sequential and year-over-year revenue performance, earnings, and unit growth significantly outperformed the market. . . . Despite competitive pricing and some short-term component cost increases, we demonstrated the powers of the direct model by maintaining operating stability. We again maximized operating profits, delivering operating income of 7.3%.

164. Defendants knew, or recklessly disregarded, that the above statements concerning Dell's financial results, performance and prospects were false and misleading when made. Dell's reported figures (including its operating profits and its operating income) were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

3. First Quarter 2003 10-Q

165. On June 17, 2002, Dell filed its Form 10-Q for the quarter ended May 3, 2002 ("Q1 2003 10-Q"). The Q1 2003 10-Q, which was signed by Schneider, repeated the following false and misleading financial information from the Company's Q1 2003 Earnings Release:

	In Millions of Dollars (except per share data)
Net Revenue	$8,066
Operating Income	$590
Net Income	$457
Earnings Per Share (Diluted)	$.17
Gross Margin	$1,391
Total Stockholders' Equity	$4,521
Total Liabilities	$8,795

166. Additionally, the Q1 2003 10-Q misleadingly stated:

> During the first quarter of fiscal 2003 . . . [t]he Company's revenues were up slightly year-over-year and sequentially, while its five largest competitors collectively experienced declining year-over-year revenues and continued operating losses in their personal computer systems and related businesses.
>
> During the quarter the Company further demonstrated the strength of its low-cost structure and efficient direct-to-customer model to generate stable operating profitability. Gross margins were down sequentially as a result of short-term cost increases in certain components. However, the Company's continued focus on cost control resulted in Company record-low operating expenses as a percentage of revenue and stable operating income. By maintaining its strategy of profitable market share growth, ***with a focus on improving overall profitability, management currently expects to continue to capitalize on market opportunities as the industry consolidates.***

(emphasis added).

167. In terms of its operating segments, the Q1 2003 10-Q stated:

> On a geographic basis, Americas net revenue increased 3% compared to the first quarter of fiscal 2002 and declined 1% sequentially on normal seasonal patterns in the consumer market. Net revenue in the U.S. Consumer segment grew 26% from the first quarter of fiscal 2002 as the Company continued to build on fiscal 2002 market share gains, and declined 23% sequentially consistent with normal seasonal patterns.

168. The Q1 2003 10-Q further falsely and misleadingly stated:

> As a percentage of net revenue, gross margin decreased from 18.0% in the first quarter of fiscal 2002 to 17.2% in the first quarter of fiscal 2003, while also decreasing 0.4% sequentially.

169. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income, net income, earnings per share and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

170. In terms of Dell's operations in Japan, the Q1 2003 10-Q stated:

> [N]et revenue in Japan increased 33% sequentially as the Company experienced both its normal seasonal strength in the quarter and an improved enterprise product mix in a weak market.

171. Defendants knew, or recklessly disregarded, that the above statements concerning Dell's operations in Japan were materially false and misleading and/or omitted material information about Dell's use of fictitious transactions with its Japanese business. As admitted in Dell's restatement, "[Dell's internal] investigation determined that almost all of the transactions of the Japan services business involving the systems integrator likely were fabricated, as were certain additional smaller transactions involving two other Japanese systems integrators. The

impact of the adjustments reduced net revenue and cost of revenue to eliminate the effect of the fictitious transactions."

4. Michael Dell and Schneider Falsely and Misleadingly Attest to the Accuracy of Dell's Financial Reports

172. On August 14, 2002, Michael Dell and Schneider filed signed statements under oath with the SEC on Form 8-K attesting that:

> (1) To the best of my knowledge, based upon a review of the covered reports of Dell Computer Corporation, and, except as corrected or supplemented in a subsequent covered report:
>
> > no covered report contained an untrue statement of a material fact as of the end of the period covered by such report (or in the case of a report on Form 8-K or definitive proxy materials, as of the date on which it was filed); and
> >
> > no covered report concealed a material fact necessary to make the statements in the covered report, in light of the circumstances under which they were made, not misleading as of the end of the period covered by such report (or in the case of a report on Form 8-K or definitive proxy materials, as of the date on which it was filed).
>
> (2) I have reviewed the contents of this statement with Dell Computer Corporation's audit committee.
>
> (3) In this statement under oath, each of the following, if filed on or before the date of this statement, is a "covered report":
>
> > the Annual Report on Form 10-K of Dell Computer Corporation for the fiscal year ended February 1, 2002;
> >
> > all reports on Form 10-Q, all reports on Form 8-K and all definitive proxy materials of Dell Computer Corporation filed with the Commission subsequent to the filing of the Form 10-K identified above; and
> >
> > any amendments to any of the foregoing.

173. Michael Dell and Schneider knew, or recklessly disregarded, that the statements in the foregoing 8-K were materially false and misleading when made because Dell's "covered report[s]," as admitted by Dell's restatement, included figures that were manipulated because the Company improperly recognized revenue and used "accounting adjustments . . . to compensate

for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The covered reports referenced in the foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

B. Second Quarter FY 2003 (For Quarter Ended August 2, 2002)

1. Second Quarter 2003 Earnings Release

174. On August 15, 2002, Dell issued an earnings release announcing its financial results for the quarter ended August 2, 2002 (the "Q2 2003 Earnings Release"). The Q2 2003 Earnings Release contained the following false and misleading financial information relating to the Company's second quarter results:

	In Millions of Dollars (except per share data)
Net Revenue	$8,459
Operating Income	$677
Gross Margin	$1,515
Total Stockholders' Equity	$4,566
Total Liabilities	$9,496

175. The Q2 2003 Earnings Release also contained the following false and misleading statement:

> Dell demonstrated the unique advantages of its efficient, customer-focused business model again in fiscal second-quarter 2003, shipping a record number of computer systems, exceeding the company's latest revenue guidance and sharply improving profitability. ***The company has met or exceeded its guidance to investors for six straight quarters.***

(emphasis added).

176. The Q2 2003 Earnings Release further falsely and misleadingly stated:

> Second-quarter operating expenses were 9.9 percent of revenue, matching a company record set in Q1. ***Improved product mix, lean cost management and lower component costs contributed to a jump in operating profit*** as a percent of revenue to 8.0 percent-the company's highest in seven quarters, and up from 7.3 percent in the first quarter and 7.2 percent one year ago.

(emphasis added).

177. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon. Moreover, the Company was only able to meet guidance figures because it manipulated its reported figures as described herein.

2. Second Quarter 2003 Earnings Conference Call

178. On August 15, 2002, Dell held a conference call to discuss its second quarter FY 2003 earnings ("Q2 2003 Earnings Call"). On the Q2 2003 Earnings Call, Defendant Schneider falsely stated:

> Dell continued to outperform the market during the second-quarter, gaining significant market share worldwide while also delivering higher profit margins. It is increasingly clear that our execution, our performance and our prospects

> continue to further differentiate Dell from the rest of the industry. Specifically, continued customer preference for our products helped drive a 2.2 point year-year increase in our worldwide market share to 14.9 percent, while the share of the rest of the top 10 competitors declined by more than 2 points.

179. Defendant Schneider further falsely and misleadingly stated on this call: "[W]e are confident that our financial and operating model will allow us to outperform the market yet again, as we maintain our focus on profitably taking share and maximizing operating income."

180. Furthermore, on the Q2 2003 Earnings Call, Defendant Rollins falsely and misleadingly stated:

> But first I want to give you a brief update on our cost-saving initiative that we laid out in the spring analyst conference. These initiatives help maintain our strategy of gaining share while also increasing operating margins as we have communicated to. [sic] Currently we are ahead of plan in all four areas of the initiatives, reducing warranty, manufacturing on logistics, structural or design cost, and finally, our overhead costs. And we now expect to deliver well over $1 billion in savings. Keep in mind that these costs are proprietary, not for the industry as a whole.

181. Finally, on this call, Michael Dell falsely stated:

> During the second quarter we, once again differentiated ourselves, as we continued to outperform the industry and profitably gain market share, delivering double-digit year-over-year unit revenue and earnings growth in a challenge [sic] macroeconomic environment.

182. Defendants knew, or recklessly disregarded, that the statements quoted above concerning Dell's financial results, performance and prospects were false and misleading when made because, as described above, Dell's reported net revenue, operating income and gross/operating margin figures were misstated. Moreover, as further admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Dell

has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

3. Second Quarter 2003 10-Q

183. On September 16, 2002, Dell filed its Form 10-Q for the quarter ended August 2, 2002 ("Q2 2003 10-Q"). The Q2 2003 10-Q, which was signed by Schneider, repeated the following false and misleading financial information, for the three months ended August 2, 2002, from the Company's Q2 2003 Earnings Release:

	In Millions of Dollars (except per share data)
Net Revenue	$8,459
Operating Income	$677
Gross Margin	$1,515
Stockholders' Equity	$4,566
Total Liabilities	$9,496

184. The Q2 2003 10-Q further falsely and misleadingly stated:

> During the second quarter and first six months of fiscal 2003, ***the Company continued to profitably grow and increase its market share***, strengthening its reputation as a leading supplier of personal and business computing systems. The Company's second quarter performance significantly exceeded the overall industry. Its revenue, earnings and unit shipments increased year-over-year and sequentially, while its top competitors collectively experienced declining year-over-year revenues and continued operating losses in their personal computer systems and related businesses.
>
> During the quarter, the Company further demonstrated the strength of its low-cost structure and efficient direct-to-customer model generating increased operating profitability.

(emphasis added).

185. Additionally, the Q2 2003 10-Q falsely and misleadingly stated:

> As a percentage of revenue, gross margin increased from 17.5% in the second quarter of fiscal 2002 to 17.9% in the second quarter of fiscal 2003, while also increasing sequentially from 17.2%. On a year-to-date basis, gross margin decreased from 17.8% during the first six months of fiscal 2002 to 17.6% during the first six months of fiscal 2003. ***The year-over-year growth of second quarter gross margin occurred primarily as a result of a favorable shift in product mix toward enterprise systems, competitive cost reductions driven by moderating personal computer market demand, and the Company's continued focus on control of component costs.*** Based on industry, economic and other factors discussed above, the Company currently expects that this gross margin environment will continue to be challenging, but the Company's intent is to focus on continuing to improve gross margins and operating margins as the economy improves. Management believes that the strength of the Company's direct-to-customer business model, as well as its strong liquidity position, makes the Company better positioned than its competitors to profitably grow market share in the current business climate.

(emphasis added).

186. The Q2 2003 10-Q falsely and misleadingly stated, "the accompanying condensed consolidated financial statements reflect all adjustments of a normal recurring nature considered necessary to present fairly the financial position of the Company and its consolidated subsidiaries at August 2, 2002 and February 1, 2002, and the results of their operations and their cash flows for the three and six months ended August 2, 2002 and August 3, 2001."

187. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of

Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

188. In explaining the Company's revenue recognition policy Dell falsely and misleadingly stated:

> *Revenue Recognition* — Net revenue includes sales of hardware, software and peripherals, and services (including extended service contracts and professional services). The Company offers separately-priced extended service contracts to customers that extend the support, parts and labor coverage offered as a part of the base warranty included with the product. The Company allocates fees from multiple element arrangements to the various elements based on the relative fair values of each element. Fair values are generally determined based on separate list prices. Product revenue is recognized when both title and risk of loss transfer to the customer, provided that no significant obligations remain. The Company provides for an estimate of product returns and doubtful accounts, based on historical experience. Revenue from service and extended warranty contracts for which the Company is obligated to perform is deferred and subsequently recognized on a gross basis over the term of the contract. Revenue from sales of third party service and extended warranty contracts for which the Company is not obligated to perform is recognized on a net basis at the time of sale. Professional services revenue is recorded when services are performed.
>
> The Company does not recognize revenue for product shipments until received by the customer, although title transfers to the customer on substantially all products when shipped. Consequently, the product costs related to these in-transit customer shipments are included in other current assets in the accompanying condensed consolidated statement of financial position.

189. Defendants knew, or recklessly disregarded, that this statement was false and misleading when made because, as described above, Dell failed to adhere to its stated revenue recognition policies and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means."

190. The Q2 2003 10-Q also included signed certifications from Michael Dell and Schneider which stated:

> 1. I have reviewed this quarterly report on Form 10-Q of Dell Computer Corporation;

> 2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
>
> 3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report.

191. Michael Dell and Schneider knew, or recklessly disregarded, that the statements contained in the signed certifications filed with the Q2 2003 10-Q were materially false and misleading when made because the report did in fact contain untrue statements of material facts. As Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

C. Third Quarter FY 2003 (For Quarter Ended November 1, 2002)

1. American Business Conference Call

192. On October 10, 2002, Dell's Senior Vice Presidents Rosendo Parra, Joseph Marengi and John Hamlin held a conference call entitled America's Business Conference Call ("AB Conference Call"). On the AB Conference Call, a Dell representative falsely and misleadingly stated:

> Certainly for the entire time that I've been at Dell, and the entire time I've had the consumer business, it's been a very price competitive market. ***I think if you look back last year at our results, if you look at what we did in the first half of this year, those are all in very tough pricing environments so I would say its business as usual, but I would also say if you look at our track record, we found a way to make very acceptable margins and operating income in those price environments so what you're seeing today is no more aggressive than when Gateway was out dropping price very aggressively in Q1 of this year***. Some of the faces have changed in terms of who's driving the aggressiveness but the

overall market is no different from what we've seen in the past several quarters.

(emphasis added).

193. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income, net income, earnings per share and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon. Finally, the Defendants concealed that increases in Dell's share included increases from fraudulent activity.

2. Third Quarter 2003 Earnings Release

194. On November 14, 2002, Dell issued an earnings release announcing its financial results for the quarter ended November 1, 2002 (the "Q3 2003 Earnings Release"). The Q3 2003 Earnings Release contained the following false and misleading financial information relating to the Company's third quarter results:

	In Millions of Dollars (except per share data)
Net Revenue	$9,144
Operating Income	$758
Net Income	$561
Gross Margin	$1,662
Stockholders' Equity	$4,648
Total Liabilities	$10,064

195. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income, net income and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

3. Third Quarter 2003 Earnings Conference Call

196. On November 14, 2002, Dell held a conference call to discuss third quarter FY 2003 earnings ("Q3 2003 Earnings Call"). On the Q3 2003 Earnings Call, Defendant Schneider stated:

> Dell continues to demonstrate execution, performance and opportunities for future growth that differentiate us from the best of the industry. ***The third quarter was another successful quarter for Dell as we delivered on our commitment to outperform the market, gain significant market share worldwide and deliver improving profit margins.*** Specifically, sequential and year-over-year revenue, earnings and unit growth significantly outperformed the market once again.

(emphasis added).

197. Defendant Schneider also falsely and misleadingly stated: "Dell continues to outperform the market in all segments, products and regions due to our superior execution and focus on profitably gaining share."

198. Furthermore, on the Q3 2003 Earnings Call, Defendant Rollins falsely and misleadingly stated:

> From the very beginning, Dell has always been successful at gaining market share. We've increased our market share by more than 400 percent since the beginning of 1995 while all of our major competitors have lost share. But over the past seven quarters, we have more than doubled the pace in which we gain share from the competition so that where we used to earn about 3/10 of share points per quarter on average, we have now doubled that to earn about 7/10 a share points per quarter. We've achieve [sic] these gains through geographic expansion, broadening our product line and focusing on extending our competitive cost advantage to deliver the best total value to our customers.

199. Additionally, on the Q3 2003 Earnings Call, a Dell representative falsely and misleadingly stated that "[w]ith our cost structure, what are great margins for us might not be great for others. But, sure, we are achieving very nice profitability. Those businesses are growing in profit faster than other parts of our business." The Company's representative also falsely and misleadingly stated:

> On the cost side, we have made good progress. We're actually ahead on the $1 billion target. I think even back to the question that was asked earlier, if you talk about the pricing environment, it has been aggressive for a long time. But our gross margins are higher now than they have been in quite a number of quarters. So we continue to make progress with these cost reductions. We're passing a lot of it through to customers in terms of taking marketshare, but we have also from quarter to quarter been dropping some of it down to the bottom line. So I think you can actually attribute most of that to our cost reduction initiatives.

200. The Company representative also falsely and misleadingly stated:

> I think, despite all of this conversation about increased pricing aggression, we are growing at twice the rate of the market and we are improving profitability with our operating margins up more than 100 basis points this year. If I look at our third quarter here and the revenue growth in our small medium businesses actually ahead of the corporate average.

* * *

> [S]o you can see there was pricing pressure more from an overall selling price standpoint. It had slight impact as well on margins and consumer profitability. But, overall, it has really been more of the price points of expanding our market share.

201. Lastly, the Company representative, falsely and misleadingly stated:

> We continue to outperform the industry and profitably gain market share, delivering greater than 20 percent year-over-year unit, revenue and earnings growth in a challenged macroeconomic environment and we expect this to continue as we stand behind our stated goal to double our revenues. While we have improved operating margins by a full percentage point from last year, we're already the only profitable manufacturer of computer hardware. We also continue to march towards our goal of 9-10 percent operating margins.

202. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income, net income and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

4. Third Quarter 2003 10-Q

203. On December 16, 2002, Dell filed its Form 10-Q for the quarter ended November 1, 2002 ("Q3 2003 10-Q"). The Q3 2003 10-Q repeated the following false and misleading financial information from the Company's Q3 2003 Earnings Release:

	In Millions of Dollars (except per share data)
Net Revenue	$9,144
Operating Income	$758
Net Income	$561
Gross Margin	$1,662
Total Stockholders' Equity	$4,648
Total Liabilities	$10,064

204. Further, the Q3 2003 10-Q falsely and misleadingly stated:

> During the quarter, the Company further demonstrated the strength of its low-cost structure and efficient direct-to-customer model by generating increased operating profitability. Gross margins for the quarter increased sequentially and year-over-year primarily as a result of the Company's cost savings initiatives, declining component costs and a favorable shift in product mix.

205. In discussing Dell's gross margins, the Q3 2003 10-Q falsely and misleadingly stated:

> As a percentage of net revenue, gross margin increased from 17.6% in the third quarter of fiscal 2002 to 18.2% in the third quarter of fiscal 2003, while also increasing sequentially from 17.9%. On a year-to-date basis, gross margin increased from 17.7% during the first nine months of fiscal 2002 to 17.8% during the first nine months of fiscal 2003. While gross margin was essentially flat on a year-to-date basis, ***the year-over-year and sequential improvement in third quarter gross margin occurred primarily as a result of the Company's cost savings initiatives, declining component costs and a favorable shift in product mix.***

(emphasis added).

206. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income, net income and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003,

2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon.

207. The Q3 2003 10-Q falsely and misleadingly stated, "the accompanying condensed consolidated financial statements reflect all adjustments of a normal recurring nature considered necessary to present fairly the financial position of the Company and its consolidated subsidiaries at November 1, 2002 and February 1, 2002, and the results of their operations and their cash flows for the three and nine months ended November 1, 2002 and November 2, 2001."

208. In explaining the Company's revenue recognition policy Dell falsely and misleadingly stated:

> *Revenue Recognition* — Net revenue includes sales of hardware, software and peripherals, and services (including extended service contracts and professional services). The Company offers separately-priced extended service contracts to customers that extend the support, parts and labor coverage offered as a part of the base warranty included with the product. The Company allocates fees from multiple element arrangements to the various elements based on the relative fair values of each element. Fair values are generally determined based on separate list prices. Product revenue is recognized when both title and risk of loss transfer to the customer, provided that no significant obligations remain. The Company provides for an estimate of product returns and doubtful accounts, based on historical experience. Revenue from service and extended warranty contracts for which the Company is obligated to perform is deferred and subsequently recognized on a gross basis over the term of the contract. Revenue from sales of third party service and extended warranty contracts for which the Company is not obligated to perform is recognized on a net basis at the time of sale. Professional services revenue is recorded when services are performed.
>
> The Company does not recognize revenue for product shipments until received by the customer, although title on substantially all products transfers to the customer when shipped. Consequently, the product costs related to these in-transit customer shipments are included in other current assets in the accompanying condensed consolidated statement of financial position.

209. Defendants knew, or recklessly disregarded, that the statements regarding the fair presentation of the Company's financial results and its revenue recognition policy were false and misleading when made because, as described above, Dell failed to adhere to its stated revenue recognition policies and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result, Dell's financial statements did not fairly and accurately present the financial position of the Company to investors.

210. The Q3 2003 10-Q also included signed certifications from Michael Dell and Schneider which stated:

> 1. I have reviewed this quarterly report on Form 10-Q of Dell Computer Corporation;
>
> 2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact in order to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;
>
> 3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
>
> 4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rule 13a-14 and 15d-14) for the registrant and we have:
>
>> a) designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
>>
>> b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
>>
>> c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date.

> 5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent function):
>
> a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
>
> b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
>
> 6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

211. Michael Dell and Schneider knew, or recklessly disregarded, that the statements contained in their signed certifications filed with the Q3 2003 10-Q were materially false and misleading when made because the report did in fact contain untrue statements of material facts. As Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon. Moreover, as admitted by Dell in its restatement, the Company failed to maintain effective controls which led to, *inter alia*, Dell employees using accounting "adjustments" in order "to compensate for operational shortfalls." In its restatement, Dell also admitted that its control deficiencies led to: a failure by the Company to consistently adhere to GAAP; a failure by the Company to employ persons with appropriate accounting knowledge given the complexity of Dell's reporting requirements; and a failure by the Company to maintain effective controls over period-ending reporting.

D. Fourth Quarter FY 2003 (For The Quarter Ended January 31, 2003)

1. Fourth Quarter 2003 Earnings Release

212. On February 13, 2003, Dell issued an earnings release announcing its financial results for the quarter ended January 31, 2003 (the "Q4 2003 Earnings Release"). The Q4 2003 Earnings Release contained the following false and misleading financial information relating to the Company's fourth quarter results:

	In Millions of Dollars (except per share data)
Net Revenue	$9,735
Operating Income	$819
Net Income	$603
Earnings Per Share (Diluted)	$.23
Gross Margin	$1,781
Stockholders' Equity	$4,873
Total Liabilities	$10,597

213. In the Q4 2003 Earnings Release, Defendant Rollins stated: "Customers always look for higher levels of value, particularly when economic conditions are weak. . . . That's why we're profitably gaining market share, and consistently producing industry-leading operating results. This performance would be outstanding in any environment, and we have no intention to depart from a very successful strategy."

214. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income, net income, earnings per share and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within

those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon. Finally, the Defendants concealed that increases in Dell's share included increases from fraudulent activity.

2. Fourth Quarter 2003 Earnings Conference Call

215. On February 13, 2003, Dell held a conference call to discuss fourth quarter FY 2003 earnings ("Q4 2003 Earnings Call"). On the Q4 2003 Earnings Call, Defendant Schneider stated:

> Specifically our year-over-year revenue, unit and earnings growth significantly outpaced the market. While industry revenues were down more than 2 percent year-over-year, Dell revenues grew by 21 percent. . . . ***We delivered improved profitability as operating margin increased by another 10 basis points sequentially to 8.4 percent in an environment that is reportedly more competitive than ever. . . . [W]e said that we would continue to profitably gain share. We also achieved this goal*** increasing our worldwide share by 2.6 points, and we are the only major systems vendor that gained share in every region and product segment.

(emphasis added).

216. On the Q4 2003 Earnings Call, Defendant Rollins also continued to tout Dell's ability to grow market share profitably:

> Finally, our profitable share gain strategy continues unabated. We gained more share in fiscal year '03 than any other year in our history, while every other company in the top five lost share. At the same time, we increased our operating profit margin in every single quarter. . . . But we also expect to significantly reduce our warranty cost, and we intend to use the cost savings the same way this year to fuel share gains, optimize operating income and improve operating income margins.

217. Defendants knew, or recklessly disregarded, that the above statements concerning Dell's financial results and performance were false and misleading when made because Dell's reported results were based on misstated net revenue, operating income, net income, earnings per

share and gross margin figures. As admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon. Finally, the Defendants concealed that increases in Dell's share included increases from fraudulent activity.

3. Dell's Stock Rises on Misleading Reports

218. On February 17, 2003, *The Associated Press* reported the following:

> • Stock in Dell Computer Corp., one of the leading barometers of the global computer industry, rose more than 10 percent Friday after the company reported record sales and sharply higher profits in its latest quarter as sales of servers and storage devices surged.
>
> • "This performance would be outstanding in any environment," said Kevin Rollins, Dell president and chief operating officer. "We have no intention to depart from a very successful strategy."

219. Rollins knew or was reckless in not knowing that the information pushing up Dell's stock was based on false and misleading figures and not on Dell's "outstanding" business model. As Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods

Dell now admits are inaccurate and should no longer be relied upon. Moreover, Dell's restatement also admitted that "[a]s a result of our review of issues . . . management has identified several deficiencies in our control environment that constitute material weaknesses and, consequently, has concluded that our internal control over financial reporting was not effective at February 2, 2007." The now-restated false statements, not the business acumen of any of the Defendants, were the driving force behind the increases in Dell's share price.

4. Goldman Sachs Conference Call

220. On February 25, 2003, Michael Dell participated in a Goldman Sachs Technology Conference Call ("Goldman Sachs Call") during which he falsely stated: "[Dell] improved profit margins to 8.4 percent in an environment that was reportedly more competitive than ever." Michael Dell also falsely and misleadingly stated: "we were the only company to gain share in every region in every product, while improving operating margins in every single quarter during the year."

221. Michael Dell knew, or recklessly disregarded, that the above statements concerning Dell's financial results, performance and prospects were false and misleading when made because, as described above, Dell's reported results were based on misstated net revenue, operating income, net income, earnings per share and gross margin figures. As admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and

irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon. Finally, Michael Dell fraudulently concealed that increases in Dell's share included increases from fraudulent activity.

5. 10-K for the Year Ended January 31, 2003

222. On April 28, 2003, Dell filed its Form 10-K for the year ended January 31, 2003 ("2003 10-K"). The 2003 10-K, which was signed by, *inter alia*, Michael Dell and Schneider, contained the following false and misleading financial information for the 2003 fiscal year:

	In Millions of Dollars (except per share data)
Net Revenue	$35,404
Operating Income	$2,844
Net Income	$2,122
Earnings per Share (Diluted)	$0.80
Gross Margin	$6,349
Total Stockholder Equity	$4,873
Total Liabilities	$10,597

223. In describing Dell's FY2003 results the 2003 10-K stated:

> Dell generated record net revenue of $35.4 billion, and achieved operating income of approximately $2.8 billion, whereas its top competitors collectively continued to experience declining revenues and operating losses in their personal computer systems and related businesses. In addition to maximizing profitability and growth, Dell delivered outstanding liquidity.
>
> Dell achieved these strong financial results in fiscal 2003 despite continued weak technology spending brought about by a soft global economic environment. Dell responded to these market conditions as it has previously by delivering award-winning products and services with leadership pricing to maximize market share growth and to realize as much profit as possible in light of existing conditions. Dell also expanded more broadly and deeply into the enterprise by launching the second generation Dell y EMC product line; significantly increasing the number of installations of high performance computing clusters; further developing relationships with other strategic partners; and improving professional services offerings. In executing its strategy, Dell leveraged its low-cost structure and efficient direct-to-customer model to aggressively price all products and pass through declining component prices and structural savings to its customers. Dell's continued focus on cost control resulted in record low operating expenses in fiscal 2003 as a percentage of revenue as well as improved operating margins. Management believes that Dell's continued industry-leading operating results

validate that the Dell model excels in any macro-economic environment and that by maintaining its strategy of profitable market share growth with a focus on improving overall profitability, Dell will continue to outperform the industry in any economic environment.

224. Further commenting on Dell's FY2003 results, the Company stated:

During fiscal 2003, Dell continued to execute its profitable market share growth strategy and achieved record unit shipments, net revenue and operating income despite a difficult industry and macro-economic environment. Management's relentless focus on cost improvements resulted in improved gross and operating margins compared to fiscal 2002 even though average revenue per unit declined over the same period as Dell passed on substantially all component cost declines to its customers. By maintaining its strategy of profitable market share growth, with a focus on improving overall profitability, management currently expects to continue to capitalize on market opportunities.

225. In commenting on the Company's FY2003 reported net revenues, the 2003 10-K stated:

During fiscal 2003, Dell generated record net revenue and unit shipments even though the global economy remained soft impacting capital spending and overall industry demand. Dell achieved this growth, among other things, by continuing to focus on geographic expansion, by expanding customer-focused product and service offerings, and by offering a superior value proposition to its customers. Net unit shipments grew 21% for fiscal 2003 compared to an industry decline of 1% (excluding Dell) in calendar year 2002, and grew 15% in fiscal 2002 compared to an industry decline of 7% (excluding Dell) in calendar year 2001. Dell's market share gain of 2.3 points worldwide in fiscal 2003 was one of the best in Dell's history.

* * *

Average revenue per-unit sold in fiscal 2003 decreased 7% compared to fiscal 2002, which was primarily due to component cost declines and Dell's practice of aggressively passing on these declines to customers to increase market share. Management currently expects that average revenue per unit will continue to decline at a moderate rate as technology spending remains soft and component cost declines continue at historical rates. However, Dell will adjust its pricing as necessary in response to future economic and competitive conditions. Average revenue per unit sold in fiscal 2002 decreased 15% compared to fiscal 2001, which was primarily due to aggressive pricing across all product lines in addition to Dell passing component cost declines through to its customers.

In fiscal 2003, net revenue increased 14% as compared to fiscal 2002 to a record $35.4 billion. Strong growth in net unit shipments across all regions and products

> drove the revenue increase, which was somewhat offset by lower average selling prices. Fiscal 2002 net revenue was 2% lower than fiscal 2001 as declines in average per-unit revenues more than offset growth in net unit shipments.
>
> On a geographic basis, Dell extended its No. 1 share ranking in the U.S. and the Americas overall with a 15% net revenue increase in fiscal 2003 as compared to fiscal 2002. Americas net revenue decreased 5% from fiscal 2001 to fiscal 2002. In the Business segment, net revenue increased 12% in fiscal 2003 as compared to a 9% decline in fiscal 2002 as technology spending stabilized. Net revenue in the U.S. Consumer segment grew 26% in fiscal 2003 and 15% in fiscal 2002, as Dell successfully drove substantial market share gains as compared to the industry.
>
> * * *
>
> Net revenue in Asia Pacific-Japan increased 16% in fiscal 2003 as compared to fiscal 2002. . . .

226. Commenting on Dell's reported FY2003 gross margins, the 2003 10-K stated:

> Gross margin as a percentage of net revenue increased from 17.7% in fiscal 2002 to 17.9% in fiscal 2003. Gross margin increased across all geographies and product categories primarily as a result of Dell's cost reduction initiatives and declining component costs. As part of its focus on improving margins, Dell remains committed to reducing costs to maintain price leadership and improve profitability through four primary cost reduction initiatives: manufacturing costs, warranty costs, structural or design costs, and overhead or operating expenses.
>
> ** *
>
> As a percentage of consolidated net revenue, gross margin decreased from 20.2% in fiscal 2001 to 17.7% in fiscal 2002. This erosion began in the fourth quarter of fiscal 2001, when Dell saw industry demand starting to decline and began an aggressive pricing strategy to gain market share and maximize profitability. Throughout fiscal 2002, Dell focused on stabilizing and improving net operating margins. The year-to-year decrease occurred primarily as a result of Dell's strategy to drive profitable market share growth.

227. Defendants knew, or recklessly disregarded, that Dell's reported net revenue, operating income, net income, earnings per share and gross margin figures were misstated because, as admitted by Dell's restatement, the Company improperly recognized revenue throughout the Class Period and used "accounting adjustments . . . to compensate for earnings shortfalls that could not be closed through operational means." As a result of the Company's

fraudulent revenue recognition practices, its reported stockholders' equity and total liabilities figures were also misstated. Moreover, as Dell has itself declared, "our previously issued financial statements for Fiscal 2003, 2004, 2005, and 2006 (including the interim periods within those years), and the first quarter of Fiscal 2007, should no longer be relied upon because of certain accounting errors and irregularities in those financial statements." The foregoing statements are included in the periods Dell now admits are inaccurate and should no longer be relied upon. Finally, the Defendants fraudulently concealed that increases in Dell's share included increases from fraudulent activity.

228. Defendants also knew, or recklessly disregarded, that the above statements concerning Dell's operations in Japan were materially false and misleading and/or omitted material information about Dell's use of fictitious transactions with its Japanese business. As admitted in Dell's restatement, "[Dell's internal] investigation determined that almost all of the transactions of the Japan services business involving the systems integrator likely were fabricated, as were certain additional smaller transactions involving two other Japanese systems integrators. The impact of the adjustments reduced net revenue and cost of revenue to eliminate the effect of the fictitious transactions."

229. In discussing Dell's adherence to reporting its financial results in conformance with GAAP, the 2003 10-K falsely stated: "Dell prepares its financial statements in conformity with generally accepted accounting principles in the U.S. Dell believes its most critical accounting policies relate to revenue recognition and warranty accruals."

230. The 2003 10-K further misleadingly stated, in a section titled "Revenue Recognition," that:

> Net revenue includes sales of hardware, software and peripherals, and services (including extended service contracts and professional services). The Company